



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,407	02/07/2002	Paul F. Jedzinski	22-0010	2800

7590 01/22/2004

Attn: Ivar M. Kaardal
Kaardal & Associates, PC
Suite 250
3500 South First Avenue Circle
Sioux Falls, SD 57105-5802

EXAMINER

CONLEY, SEAN E

ART UNIT	PAPER NUMBER
1744	

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/071,407

Applicant(s)

JEDZINSKI, PAUL F.

Examiner

Sean E Conley

Art Unit

1744

ed

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2002 and 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on February 7, 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Sousa (U.S. Pat. 5,972,290) in view of Kantor et al. (U.S. Pat. 6,375,983 B1).

De Sousa discloses a method and apparatus for the programmed scenting of environments. The apparatus includes a disk (15) containing multiple fragrance capsules (16) mounted in the surface of the disk. The disk (15) is inserted into a disk processing box (1) for selectively releasing and dispensing scents. The interior of the box (1) contains a disk processing mechanism (13). The disk processing mechanism operates with a perforation device (17) that is movable by drive means in a vertical direction and is equipped with a pointed element (18) that serves to selectively puncture

the capsules (16) containing the fragrances. In operation, the capsules (16) are ruptured by the piercing of pointed element (18) and the scenting substance contained in the capsules (16) is released. The capsules (16) are manufactured from an appropriate material such as puncturable plastic or other material that is suitable to be punctured by the pointed element (see figures 1-3 and col. 3, line 1 to col. 4, line 27).

However, De Sousa does not teach a fragrance in the microcapsule that is a scent vapor.

Kantor et al. disclose microencapsulated fragrances and the method for preparation. The microcapsules are made of polymers and the fragrances contained in the microcapsules can be solid, liquid, or vapor (see col. 2, lines 53-61). This reference has been relied upon to teach that it is known to encapsulate a scented vapor for the purpose of releasing a scent in a controlled manner.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the liquid fragrance used in the microcapsule of De Sousa and replace it with a scented vapor as taught by Kantor et al. since it is known to encapsulate either a solid, liquid or vapor for the purpose of controlling the scent release to a surrounding atmosphere.

4. Claims 1, 2, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tebbe (U.S. Pat. 5,734,590) in view of Kantor et al.

Tebbe discloses a scent generator that is used in combination with a compact disc having audio and video output. The scent generator (84), as seen in figure 5, has a

supply reel (94) of a scent carrier web (96) which consists of paper (98) with microcapsules (100) attached thereto and is wound onto a core (102). The microcapsules contain a scent that is to be released into the environment. The supply reel (94) is mounted to be freely rotatable on a shaft (104). The scent carrier web (92) runs over a guide roller (106) into cooperating squeezing rollers (108, 110). The squeezing rollers are in contact with each other and rupture the microcapsules and release the scent into the environment as the tape passes between the rollers. It can be seen in figure 5 that the microcapsules are located in a longitudinal band extending in a longitudinal direction of the length of tape. The used scent carrier web (96) runs over a further guide roller (120) onto a core (122), which is rigidly mounted onto a shaft (124). The shaft is driven by a motor (128), which is activated by a supply circuit (130) (see figure 5 and col. 8, line 64 to col. 9, line 24).

However, Tebbe does not teach a fragrance in the microcapsule that is a scent vapor.

Kantor et al. disclose microencapsulated fragrances and the method for preparation. The microcapsules are made of polymers and the fragrances contained in the microcapsules can be solid, liquid, or vapor (see col. 2, lines 53-61). This reference has been relied upon to teach that it is known to encapsulate a scented vapor for the purpose of releasing a scent in a controlled manner.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the liquid fragrance used in the microcapsule of Tebbe and replace it with a scented vapor as taught by Kantor et al. since it is known to

encapsulate either a solid, liquid or vapor for the purpose of controlling the scent release to a surrounding atmosphere.

5. Claims 1, 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiser (U.S. Pat. 3,640,629) in view of Kantor et al.

Geiser discloses a perfumed dispenser which comprises a tape or strip of narrow sheet material having a raised portion at each edge and pressure-rupturable microcapsules containing scents. The sheet material substrate (1) has microcapsules (4) mounted on the surface of the support. The sheet material may be of any suitable material such as paper or flexible plastic and the sheet material can be formed into rolls. The microcapsules contain the fragrance that is released when the microcapsule is ruptured. The capsules are protected against breakage when the sheet material is formed into rolls or when strips of the sheet material are packaged in layers. When the sheet material is packaged in layers the microcapsules are positioned between the sheet materials. Thus forming a plurality of microcapsules positioned between a first and second length of sheet material. Additionally, the sheet material may contain an adhesive backing and therefore the sheet material is a length of tape (see figures and col. 1, line 41 to col. 2, line 60).

However, Geiser does not teach a fragrance in the microcapsule that is a scent vapor.

Kantor et al. disclose microencapsulated fragrances and the method for preparation. The microcapsules are made of polymers and the fragrances contained in

the microcapsules can be solid, liquid, or vapor (see col. 2, lines 53-61). This reference has been relied upon to teach that it is known to encapsulate a scented vapor for the purpose of releasing a scent in a controlled manner.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the liquid fragrance used in the microcapsule of Geiser and replace it with a scented vapor as taught by Kantor et al. since it is known to encapsulate either a solid, liquid or vapor for the purpose of controlling the scent release to a surrounding atmosphere.

6. Claims 1-5, 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khan (U.S. Pat. 5,097,376) in view of De Sousa and still further in view of Kantor et al.

Khan discloses a container with recording medium having a fragrance in or on the recording medium. The recording medium functions as the support for the microencapsulated fragrance. The microcapsules are sprayed onto all of the smooth surfaces of the recording medium (see example 3 and col. 2, lines 48-68). Additionally, the recording medium is a flexible tape inside of a standard audio or video cassette. Although not specifically disclosed by Khan, it is known that conventional audio and video cassettes comprise a recording medium that is a length of tape having a metalized coating for magnetically recording video images and audio sounds. Khan fails to disclose the type of material used for the microcapsules housing the fragrance and also fails to teach a scent vapor.

De Sousa discloses a method and apparatus for the programmed scenting of environments. The apparatus includes a disk (15) containing multiple fragrance capsules (16) mounted in the surface of the disk. The disk (15) is inserted into a disk processing box (1) for selectively releasing and dispensing scents. The interior of the box (1) contains a disk processing mechanism (13). The disk processing mechanism operates with a perforation device (17) that is movable by drive means in a vertical direction and is equipped with a pointed element (18) that serves to selectively puncture the capsules (16) containing the fragrances. In operation, the capsules (16) are ruptured by the piercing of the pointed element (18) and the scenting substance contained in the capsules (16) is released. The capsules (16) are manufactured from an appropriate material such as puncturable plastic or other material that is suitable to be punctured by the pointed element (see figures 1-3 and col. 3, line 1 to col. 4, line 27).

Kantor et al. disclose microencapsulated fragrances and the method for preparation. The microcapsules are made of polymers and the fragrances contained in the microcapsules can be solid, liquid, or vapor (see col. 2, lines 53-61). This reference has been relied upon to teach that it is known to encapsulate a scented vapor for the purpose of releasing a scent in a controlled manner.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the microcapsules of Khan and make them out of a flexible material that can be ruptured in order to release the contained fragrance as taught by the scent release disk to De Sousa. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify

the liquid fragrance used in the microcapsule of Khan and replace it with a scented vapor as taught by Kantor et al. since it is known to encapsulate either a solid, liquid or vapor for the purpose of controlling the scent release to a surrounding atmosphere.

7. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khan in view of De Sousa and Kantor et al. as applied to claims 1 and 2 above, and further in view of Tebbe (U.S. Pat. 5,734,590).

Khan and De Sousa do not specifically disclose that the microcapsules are located in a longitudinal band extending in a longitudinal direction of the length of tape.

Tebbe discloses a scent generator that is used in combination with a compact disc having audio and video output. The scent generator (84), as seen in figure 5, has a supply reel (94) of a scent carrier web (96) which consists of paper (98) with microcapsules (100) attached thereto and is wound onto a core (102). The microcapsules contain a scent that is to be released into the environment. The supply reel (94) is mounted to be freely rotatable on a shaft (104). The scent carrier web (92) runs over a guide roller (106) into cooperating squeezing rollers (108, 110). The squeezing rollers rupture the microcapsules and release the scent into the environment. It can be seen in figure 5 that the microcapsules are located in a longitudinal band extending in a longitudinal direction of the length of tape.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the invention of Khan and place the

microcapsules in a longitudinal band on the recording medium along side the audio or visual signals found on the recording medium in order to match the scent with the audio or video signal as taught by Tebbe.

8. Claims 11-15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tebbe in view of Kantor et al. as applied to claims 1, 2, 9 and 10 above, and further in view of EP 0313215 A2.

Tebbe fails to disclose one of the rollers having a plurality of protrusions formed thereon for puncturing the outer walls of the beads or a battery for supplying power to an electrical motor.

EP 0313215 A2 disclose a system for the controller release of a scent that is encapsulated. The encapsulated scent is a volatile liquid that is located in pockets on the surface of a web. The webs are wound up on rolls which are held on a drive shaft. The drive shaft (16) is powered by a motor (24) and when activated the webs are dispensed from the full roll to an empty roll. As the web is unrolled the microcapsules (32) located on the surface are ruptured by a roller (30) which has sharp bristles used to puncture the microcapsules (32). Once ruptured the microcapsules release a scented vapor into the surrounding atmosphere. The motor (24) that powers the drive shaft is controlled by a PC board (26) and batteries (28) (see figures and col. 3, lines 25-57).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Tebbe and replace the squeezable rollers with an alternative means of rupturing the microcapsules such as a

roller having a plurality of protrusions as taught by EP 0313215 A2. Furthermore, it would have been obvious to one of ordinary skill in the art to modify the invention of Tebbe and use a battery as the source of power for the motor as taught by the invention of EP 0313215 A2.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Conley, whose telephone number is (571) 272-1273. The examiner can normally be reached on Monday-Friday 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert Warden, can be reached at (703) 308-2920. The Unofficial fax phone number for this group is (703) 305-7719. The Official fax phone number for this Group is (703) 872-9310. The direct fax number to the (571) 273-1273.

When filing a FAX in Technology Center 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite the processing of your papers.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [robert.warden@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via internet e-mail where sensitive data will be exchanged

Application/Control Number: 10/071,407
Art Unit: 1744

Page 11

or where there exists a possibility that sensitive data could be identified unless there is of record express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist, whose telephone number is (703) 308-0661.

Sean E. Conley
Patent Examiner
AU 1744

SEC *Az*
January 9, 2003

Robert J. Warden, Sr.
ROBERT J. WARDEN, SR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700